



6,787,692 #84 GR 212
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APR 11 1991
GROUP 210

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re application: INVERTER WITH RESONANT L-C CIRCUIT

Applicant: Ole K. Nilssen

Serial No: 06/787,692

Filed: 10/15/85

Group Art Unit: 212

Examiner: WILLIAM H. BEHA

Director: DONALD G. KELLY

Petitions Examiner: JEFFREY V. NASE

Applicant's Phone Number: 708-658-5615

I, OLE K. NILSEN, HEREWITNESS CERTIFY THAT THE DATE OF DEPOSIT WITH THE U.S. POSTAL SERVICE OF THIS PAPER OR FEE IS: 4-4-91

RE-REPEATED PETITION RE IMPROPER RESPONSE TO PREVIOUS PETITION

Commissioner of Patents and Trademarks
Washington, D.C. 20231

On 11/01/90 Applicant filed a PETITION RE IMPROPER FINAL REJECTION.

On 11/16/90 the Director of Group 210 responded to this Petition by returning it to Applicant without acting thereupon.

The Director's stated reason for returning Applicant's Petition is that of non-compliance with the decorum requirements of 37 CFR 1.3.

Applicant then submitted a new petition entitled "PETITION RE IMPROPER RESPONSE TO PREVIOUS PETITION", which new petition was filed on 11/23/90.

Applicant received a response to this new petition dated 12/24/90; which response was clearly improper.

Applicant then submitted a REPEATED PETITION RE IMPROPER RESPONSE TO PREVIOUS PETITION; which repeated petition was filed on 02/22/91.

Applicant received a response to this repeated petition dated 03/29/91; which response was also clearly improper.

With respect to the facts of the situation, Applicant refers to the previously submitted papers as well as to the attached copy (without attachments) of his REPEATED PETITION RE IMPROPER RESPONSE TO PREVIOUS PETITION.

The Petitions Examiner's 03/29/91 decision is improper for the following reasons:

(1) The Petitions Examiner failed to provide a definition of the term "decorum and courtesy".

Applicant, who -- with reference to previously submitted Affidavit -- is both well educated and well experienced, can not understand in what way he failed to conduct business with the Patent and Trademark Office with "decorum and courtesy".

(2) The Petitions Examiner merely asserts that Applicant failed to conduct business with the Patent and Trademark Office with "decorum and courtesy"; which, in the absence of a proper definition for the term "decorum and courtesy", compounds the impropriety of the Petitions Examiner.

That is, the Petitions Examiner utterly failed to provide an explanation as to why and/or in what manner Applicant failed to conduct business with the PTO with "decorum and courtesy" (however that term might be defined).

For instance, exactly what did Applicant state that was considered to be tantamount to failing to conduct business with the PTO with "decorum and courtesy"?

Then, if indeed the Petitions Examiner were to identify a statement violating the "decorum and courtesy" requirement, on basis of what legal rationale did the Petitions Examiner arrive at a decision with respect to the unacceptability of such statement?

(2) The Petitions Examiner utterly failed to cite legal authority on basis of which Applicant's remarks might be deemed to constitute failure to conduct business with the PTO with "decorum and courtesy".

Is it so that the PTO does not wish to hear any complaint about any of its examiners?

Or, if a complaint is going to be made about the examining competence and/or attitude of an examiner, is it unacceptable of the complainer to describe how and/or to what degree he finds the examiner to be incompetent?

If an applicant wishes to petition to have an examiner removed from the examination of his application, is this applicant prevented from expressing his complaint about the examiner in the best way he knows how?

If not, what are the rules governing what an applicant may and/or may not state?

CONCLUDING REMARKS

Applicant points out that his remarks regarding Examiner's lack of competence were addressed to the Group Director, not to the Examiner himself. Moreover, Applicant did identify evidence for his allegations; which evidence consisted of the file wrapper of the particular application underlying instant petition.

Finally, as seen from Applicant's perspective, if the PTO had been the least concerned with keeping its "customers" happy, it should encourage each and every one of its "customers" who might have a complaint to express such complaint to the PTO, thereby to help the PTO to improve its service to its "customers".

However, what Applicant does see from the PTO is an attitude equivalent to that he would expect to find in the Soviet Union, where the "bureaucrat is king" and the "customer be damned".

Perhaps the PTO might consider the possibility of adopting the attitude of successful private corporations, where the "customer is always right".

Clearly, if Applicant had had a free choice in the matter, he would long since have removed his business from the particular examiner in question; which examiner has been treating Applicant as if Applicant were getting a free service from the Public and for which he should be humbly thankful; whereas, in reality, Applicant pays for the services he receives from the PTO, including a good part the examiner's salary.

So, Applicant repeats his petition to the Commissioner:

(i) Rescind the finality of Examiner's latest office action; and

(ii) In the interest of cost-effectivity, remove this particular examiner from the prosecution of Applicant's various patent applications.



Ole K. Nilssen, Pro Se Applicant



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REPEATED PETITION RE IMPROPER RESPONSE TO PREVIOUS PETITION

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On 11/01/90 Applicant filed a PETITION RE IMPROPER FINAL REJECTION. A copy of this Petition is attached hereto.

On 11/16/90 the Director of Group 210 responded to this Petition by returning it to Applicant without acting thereupon. A copy of the Director's letter is attached hereto.

The Director's stated reason for returning Applicant's Petition is that of non-compliance with the decorum requirements of 37 CFR 1.3.

Applicant then submitted a new petition entitled "PETITION RE IMPROPER RESPONSE TO PREVIOUS PETITION", which new petition was filed on 11/23/90.

Applicant received a response to this new petition dated 12/24/90; which response was improper.

The facts of the situation are as follows.

(a) In an action by the Board of Appeals dated 11/30/89, the Board recommended for the Examiner to consider rejection of certain claims already allowed by Examiner.

(b) In response to this recommendation, Applicant submitted an Amendment E dated 01/20/90; which Amendment was found by Examiner to be non-responsive and was not entered. At the same time, Examiner placed Applicant's application in the state of abandonment.

(c) Applicant then submitted a petition to Commissioner on 02/23/90, arguing that Examiner inappropriately abandoned Applicant's application.

(d) Finally, not having received a response to his petition, Applicant submits a "PETITION FOR REVIVAL" ON 07/14/90.

(e) On 02/08/90, Applicant receives a response to his petition submitted on 02/23/90; which petition was granted, thereby reversing Examiner's holdong of abandonment.

(f) The "PETITION FOR REVIVAL" was granted on 11/24/90.

(g) On 10/23/90 Applicant submitted a "PETITION FOR REFUND OF FEE"; which petition has not yet been acted upon.

(h) On 09/26/90 Applicant receives a final Office Action from Examiner; which final Office Action rejects said certain claims for the first time; which certain claims were never amended; which is to say: they were original unamended claims.

(i) On 10/28/90 Applicant submits a "PETITION RE IMPROPER FINAL REJECTION"; arguing that it was improper for Examiner to reject Applicant's original unamended claims for the first time in a final office action.

(j) On 11/16/90 Applicant gets his Petition returned without action for the alleged reason of "failure to conduct business with the U.S. Patent and Trademark Office with decorum and courtesy". Apparently, the PTO does not wish to hear anything from an applicant to the effect that the applicant considers one of its examiners imcompetent and unfit.

(k) On 11/20 Applicant submits two petitions: one entitled "PETITION RE IMPROPER RESPONSE TO PREVIOUS PETITION", and one entitled "REVISED PETITION RE IMPROPER FINAL REJECTION". In these petitions, Applicant attempts as best he can to circumvent the PTO's apparently very acute sensibilities regarding the issue of conducting business with the PTO "with decorum and courtesy".

(l) On 12/24/90 the Director of Group 210 denied Applicant's petition with respect to overturning the finality of Examiner's first-time rejection of Applicant original virgin claims. The

Director's "reasoning" appears to be that Applicant availed himself of the opportunity to respond to the Board's recommendation to reject Applicant's claims, and that therefore it was indeed appropriate for Examiner to make his initial action on these claims a final action.

However, while it is true that Applicant attempted to avail himself of the opportunity to respond to the Board's recommendation, his attempted response was rebuffed by Examiner: it was never entered; which clearly means that -- as far as instant case is concerned -- this attempted response is a nullity: it does not exist for the reason that it was not entered.

Hence, the basic fact remains that Examiner rejected Applicant's original unamended claims for the first time in a final office action; which according to the PTO's own rules is inappropriate.

So, Applicant herewith petitions Commissioner to overturn the Director's decision and reverse the finality of Examiner's latest office action.



Ole K. Nilssen, Pro Se Applicant

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I, OLE K. NILSEN, HEREWITH
CERTIFY THAT THE DATE OF
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IS: 11-20-90

A handwritten signature in black ink, appearing to read "OLE K. NILSEN". It is placed over the handwritten text of the certification.

PETITION RE IMPROPER RESPONSE TO PREVIOUS PETITION

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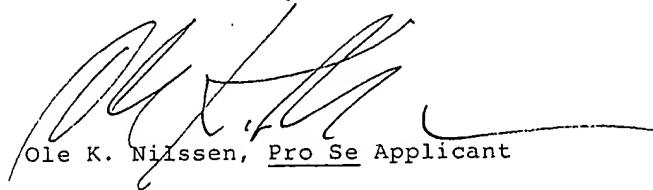
In Applicant's opinion, his Petition was well within the decorum requirements of 37 CFR 1.3.

The fact is that Applicant has -- on basis of his own rather extensive professional background (as testified-to in the attached Affidavit) as well as on the basis of an extended period of interaction with subject Examiner -- reached the opinion that this Examiner is unusually incompetent, etc. -- just as explained in the Petition.

Applicant does not understand how he can ask the Commissioner to take an action involving the removal of an examiner from the prosecution of a given application without providing an explanation as to why such request is made. Yet, that very explanation centrally involves Applicant's opinion with respect to the examiner's competency and attitude.

Is it so that the PTO does not wish to hear any comments with respect to possible incompetency and/or inappropriate attitude on part of one of its examiners?

On basis of the above presentations and arguments, Applicant herewith Petitions Commissioner to accept Applicant's previous Petition for consideration on its merits.



Ole K. Niissen, Pro Se Applicant